

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION

Gary Timm, Jr.,

Petitioner,

v.

Case No. 2:24-cv-353

Judge James L. Graham

Magistrate Judge Karen L. Litkovitz

Warden, Noble Correctional Institution,

Respondent.

Order Adopting Report and Recommendation

This matter is before the Court on the Magistrate Judge's Report and Recommendation, which recommended that petitioner's habeas corpus petition brought under 28 U.S.C. § 2254 be denied with prejudice.

No objections to the Report and Recommendation have been filed. Upon review, the Court agrees with the Report and Recommendation (Doc. 11), which is hereby adopted. The petition is denied and this action is dismissed with prejudice.

The Court finds that a certificate of appealability should not issue with respect to the petition because petitioner has not stated a "viable claim of the denial of a constitutional right" or presented an issue that is "adequate to deserve encouragement to proceed further." *See Slack v. McDaniel*, 529 U.S. 473, 475 (2000); *see also* 28 U.S.C. § 2253(c); Fed. R. App. P. 22(b). The Court certifies pursuant to 28 U.S.C. §1915(a)(3) that an appeal of this order would not be taken in good faith for the reasons stated in the Report and Recommendation. Therefore, the Court denies petitioner leave to proceed on appeal *in forma pauperis*. *See* Fed. R. App. P. 24(a); *Kincade v. Sparkman*, 117 F.3d 949, 952 (6th Cir. 1997).

s/ James L. Graham

JAMES L. GRAHAM

United States District Judge

DATE: June 11, 2025